

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

TALYSA JOHNSON,  
Plaintiff,

vs.

GARY TALBERT and  
SCP DISTRIBUTORS, LLC.,  
Defendants.

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Case No.:

**NOTICE OF REMOVAL**

TO: The Judges of the United States District Court, Northern District of Georgia

COME NOW Defendants Gary Talbert and SCP Distributors, LLC, and respectfully shows the Court as follows:

1.

A civil action was brought against the Defendants in the State Court of Gwinnett County, State of Georgia, by the above-named Plaintiff, said action being designated as Civil Action File No. 22-C-04902-S2. It has now been demonstrated through Plaintiff's recently received discovery responses that the Plaintiff seeks to recover from the Defendants a sum in excess of \$75,000, exclusive of interest and costs.

2.

Plaintiff's discovery responses were received by Defendant's counsel on March 28, 2023. (See, Affidavit of Dale C. Ray Jr. and attached email exchange filed contemporaneously herewith).

3.

Plaintiff's response to Defendant SCP Distributors, LLC's request for admissions disclosed for the first time that she was seeking damages in excess of \$75,000. (see, Exhibit 24 hereto, p. 12).

4.

Plaintiff's Complaint in this matter had not stated an amount that Plaintiff was seeking, other than to state that Plaintiff had incurred medical expenses in excess of \$20,000. (see, Exhibit I hereto, paragraph 19).

5.

The ad damnum clause of Plaintiff's Complaint did not specify any specific amount of money being sought as damages.

6.

The Plaintiff is a citizen and resident of the State of Georgia (see, Plaintiff's Interrogatory response no. 1, Exhibit 24 hereto).

7.

Defendant Talbert is resident of the state of North Carolina (see, Exhibits 4 (proof of service) and 13 (Talbert discovery responses) hereto).

8.

Defendant SCP Distributors, LLC a foreign limited liability company with a principal office located in Covington, Louisiana (see, Georgia Secretary of State Corporations Division records attached to the Affidavit of Dale C. Ray, Jr.).

9.

There is complete diversity of citizenship among the parties in this matter.

10.

It is now shown by the Plaintiff's discovery responses that she is seeking an amount of damages that exceeds the \$75,000 jurisdictional limit for federal jurisdiction based on diversity of citizenship.

11.

Under 28 USC § 1446(b)(3), if the case stated in the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the Defendant of an amended pleading, order or "other paper" from which it may first ascertain that the case is one which is or has become removable.

12.

Under 28 USC § 1446(c)(3)(A), if the case stated in the initial pleading is not removable because the amount in controversy does not exceed the amount specified in 28 USC § 1332(a), information related to the amount in controversy shown in responses to discovery shall be treated as an “other paper” under 28 USC § 1446(b)(3).

13.

This Notice of Removal is filed within 30 days of receipt of such “other paper” from the Plaintiff.

14.

Defendants attach hereto or separately file herewith the pleadings from the state court action, which have been labeled as Exhibits 1 through 25.

15.

Also submitted herewith are Affidavits of the lawyers for the Defendants, Dale C. Ray, Jr. and James H. Hardee, which document the fact that Plaintiff’s discovery responses were not received by either until March 28, 2023. The Affidavit of Dale C. Ray, Jr. also submits documents from the Georgia Secretary of State showing that Defendant SCP Distributors, LLC is a foreign limited liability company.

16.

This action could have originally been brought in this Court under 28 USC §1332, in that it is a civil action wherein the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is diversity of citizenship between the parties.

17.

Pursuant to 28 USC § 1441, et seq., this action is now removable by reason of diversity of citizenship, there being diversity of citizenship and more than \$75,000 in controversy, exclusive of interest and costs.

18.

Notice of Removal is hereby given in accordance with 28 USC § 1446.

WHEREFORE, Defendants file this Notice of Removal of this lawsuit to this court.

Respectfully submitted, this 11<sup>th</sup> day of April, 2023.

**FAIN MAJOR & BRENNAN, P.C.**

/s/ Dale C. Ray, Jr.

JAMES W. HARDEE

Georgia Bar No. 324399

DALE C. RAY, JR.

Georgia Bar No. 596095

*Counsel for Defendants*

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**CERTIFICATE OF SERVICE**

This is to certify that I have this date served upon counsel for the opposing parties in the foregoing matter a copy of the foregoing NOTICE OF REMOVAL with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following counsel of record:

Adanna U. Ugwonali  
UGWONALI LAW GROUP, LLC  
750 Hammond Dr.  
Building 12, Suite 200  
Atlanta, GA 3028  
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This 11<sup>th</sup> day of April, 2023.

One Premier Plaza  
5605 Glenridge Drive NE, Suite 900  
Atlanta, GA 30342  
(404) 688-6633  
[dray@fainmajor.com](mailto:dray@fainmajor.com)

FAIN MAJOR & BRENNAN, P.C.

/s/Dale C. Ray, Jr.  
DALE C. RAY, JR.  
Georgia Bar No. 596095  
*Counsel for Defendants*